REMARKS

PTO-1449

Applicants have not received a signed copy of the PTO-1449 Form for the Information Disclosure Statement filed on December 20, 2002, and request that such document be sent. For the Examiner's convenience, a copy of the PTO-1449 is attached.

Claim Objections

The formula in claim 1 is redrawn as requested.

The Rejections Under 35 USC § 103

A new obviousness rejection is issued where the Office Action combines Creswell with Adams. Creswell teaches compounds for a different use than to which the current method claims are directed. The Office Action admits that "Creswell et al. does not specifically teach the treatment of rheumatoid arthritis or the p38 activity of the compounds taught therein." Creswell teaches the treatment of atherosclerosis. See abstract.

Adams teaches the treatment of p38 mediated diseases, such as rheumatoid arthritis, but the compounds therein are very different than the compounds of Creswell and also of the present claims. The Office Action characterizes the compounds of these references as "similar" diazoles. However this characterization has no basis and no explanation is provided as to how the compounds of these two references could be deemed to be similar by one of ordinary skill in the art. The compounds of Creswell, i.e., of formula I therein disclosed on column 2, all contain a phenyl group connected via a urea group to a heterocyclic moiety. There is no corresponding urea group anywhere in the compounds of Adams, i.e., of formula I therein disclosed on column 3, which are tri-substituted imidazole compounds. There is absolutely no overlap between the two generic formulae, and no suggestion they are similar.

Adams does teach the treatment of atherosclerosis p38, but unlike as alleged, does not teach that atherosclerosis is a p38 mediated disease. The reference clearly teaches that atherosclerosis is related to IL-1 production. See, for example, column 1, lines 30-32 and column 38, line 64 to column 39, line 9. The Office Action refers to column 38, lines 4-24, to support the allegation that Adams teaches that atherosclerosis is a p38 mediated disease. However, atherosclerosis is not included in this list. Therefore, there is no support for the allegation that Adams teaches that atherosclerosis is a p38 mediated disease.

Whether Adams teaches that atherosclerosis is a p38 mediated disease or whether it was otherwise known in the art to be a p38 mediated disease is not relevant to the issue of

obviousness. Such information, does not teach or suggest that the compounds of Creswell are effective in inhibiting p38 and in treating p38 mediated diseases, since such information does not exclude the possibility that other pathways may mediate atherosclerosis. More importantly, such information adds nothing to the teachings of Creswell to suggest the compounds of formula I herein are effective in treating p38 mediated diseases.

For all the foregoing reasons, the claims of the present application are not obvious over the combination of these references.

New Claims

New claims 31 and 32 are further distinguished from the cited references as these compounds and the methods claimed are not taught or suggested by the cited references.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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